

Members:
Sen. Greg Server, Chair
Sen. Allie Craycraft
Sen. James Lewis
Sen. Harold Wheeler
Rep. James Bottorff
Rep. Markt Lytle
Rep. Richard Mangus
Rep. Phyllis Pond



NATURAL RESOURCES STUDY COMMITTEE

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MEETING MINUTES

Meeting Date: October 27, 1998
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 156-A
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Greg Server, Chair; Sen. Harold Wheeler; Sen. James Lewis; Rep. James Bottorff; and Rep. Richard Mangus.

Members Absent: Sen. Allie Craycraft; Rep. Markt Lytle; Rep. Phyllis Pond.

Sen. Server, Chair of the Committee, called the meeting to order. After introducing members of the Committee, Sen. Server asked for a report on the wild turkey population.

The Wild Turkey Population. Glenn Lange, Chief of Wildlife, Division of Fish and Wildlife, Department of Natural Resources (DNR), provided the Committee with an overview of the wild turkey population. Wild turkeys were first released in 1956. The turkeys were originally obtained from sources outside of the state. In the 1960s and 1970s, the DNR conducted a limited number of wild turkey releases. The program was accelerated in the 1980s in order to develop a population sufficient to hunt. The DNR has released about 2,500 birds in total. Seventy-eight counties maintain a wild turkey population, and hunting for turkeys is allowed in 74 counties. In southern Indiana the population has stabilized and should not expand. In west central and northern Indiana, the population may expand but not at an accelerated rate.

About 40 states have wild turkey populations, and no state has reported damage. The DNR has received less than a dozen complaints during the past several years alleging damage to property caused by wild turkeys. After investigation, the damage that had occurred was attributed to other species. Only three or four cases of wild turkey consuming grain have been substantiated. The DNR has not received a complaint about wild turkey damage from the southeastern part of the state since 1975.

Instituting a fall turkey hunting season would increase the number of turkeys killed each year. Currently, turkey hunting is permitted in the spring. The Division has proposed a fall turkey hunting season in the past. Surrounding states have fall turkey hunting seasons.

Dick Mercier, Indiana Sportsmen's Round Table, requested that a second license for turkeys be established, noting that the Commission on Natural Resources could establish the fall season.

Fishing on Lake Michigan. Bill James, Chief of Fisheries, DNR, explained that Indiana and other states surrounding Lake Michigan prohibit fishing for perch on Lake Michigan. The challenges associated with re-establishing the perch population and fisheries management on Lake Michigan continue. However,

collaborate research and management among the states surrounding Lake Michigan under the umbrella of the Great Lakes Fisheries Commission have provided good resources and guidance to address the issues.

Since 1988 the yellow perch population has experienced a disastrously low natural reproduction rate. The low reproduction rate coupled with heavy fishing pressure led to a severe population decline. To slow the decline and to protect the reproductive potential of diminished stocks, states enacted strict harvest regulations. At present all commercial perch harvesting is suspended throughout the Lake, and sports harvesting is tightly controlled.

The DNR has an ongoing research contract with Ball State University to study perch. Research conducted during the summer of 1998 indicated that the perch are experiencing a strong year. Alewife, a fish closely related to herring, is a known predator of perch. The alewife population has dropped by nearly 50% from 1997 to 1998 to their lowest level since 1988, which, incidentally, was the last year that the perch experienced a good hatch. Research indicates a strong relationship between the alewife population and perch. High alewife abundance correlates with low perch numbers.

The DNR will continue to monitor the perch population to see if the recent class of perch remains strong. The female perch of the current class will not mature until 2001. The surviving adults from the preceding weaker years will not have help until 2001. Future alewife abundance is unknown as is the future reproduction rates of perch. Relaxing harvesting restriction is premature.

The alewife may be disappearing because of the increase in trout and salmon that eat the alewife. Salmon eat perch, although perch is not a preferred food item. There are concerns that there may be too many trout and salmon in the Lake. Additionally, El Nino may have had an effect.

Desecration of Graves. Rep. Tom Saunders brought to the Committee the issue of the desecration of graves. Rep. Saunders became aware of the problem through the newspaper. The article explained that a company wanted to build a warehouse on a parcel of land that included a cemetery. The bodies in the cemetery had been in the graves since 1844. The company removed the remains of eight adults and 35 children and sent them to the University of Indianapolis. Rep. Saunders contacted the University of Indianapolis. Staff at the University were uncertain as to whether the bodies would be re-interred or whether they would be kept for future study.

After reviewing the appropriate statutes, Rep. Saunders discovered that moving grave sites was legal. He hopes to open discussions to remedy the situation. Although he understands that to maintain cemeteries is sometimes difficult, he believes that the citizens of Indiana owe it to their ancestors to maintain cemeteries forever. He suggested that perhaps the company that removed the cemetery could have located the building 50 feet one way or the other so as not to disturb the cemetery. He suspected that many citizens believe that when a body is interred, it will remain interred forever.

Larry Macklin, Director of the DNR, addressed the Committee as follows. According to Mr. Macklin, one of the most serious responsibilities charged to the DNR is the protection of Indiana's cultural history. The desecration of graves is a serious public policy issue, and citizens are concerned, and some alarmed, about the maintenance or upkeep of cemeteries. At best, historic resting places are often forgotten and neglected, and, at worst, they are damaged by vandalism and theft under a variety of circumstances. Cemeteries deserve to be protected not only out of basic respect for the people interred, but also because of their cultural significance. The DNR takes seriously its role in finding meaningful solutions to this public policy problem.

Indiana cemeteries are protected in a variety of ways. The Indiana Historic Preservation and Archaeology Act (IC 14-2.1) provides protection for archaeological sites that date before December 11, 1816, and also preserves human burial sites that date on or before December 31, 1939. The Indiana General Cemetery Act (IC 23-14), which is administered by the State Board of Health, provides protection for human burial locations that date after 1939. In addition, coal mining projects in Indiana are required to avoid or legally move cemeteries near their operations. Finally, the Criminal Mischief Law (IC 35-43-1-2), enforced by local prosecutors, provides protection from intentional damage to a cemetery (or other

property) without the consent of the owner.

Mr. Macklin continued by saying that under Indiana law, an individual who owns property that contains a cemetery may alter the cemetery surface property without a permit or oversight from any level of government. A property owner may remove, discard, or even sell grave markers. A property owner may grant consent to anyone to enter the property to remove or discard grave markers. In this manner, Indiana law allows for the desecration of graves and the desecration of Indiana's heritage. Although the problem is often the inadvertent result of well-intentioned individuals, the practice could devastate a hallowed portion of Indiana's historical and cultural legacy.

The DNR and its Division of Historic Preservation and Archaeology recommends at least the following changes in Indiana law to protect the final resting places of generations of Hoosiers and to preserve the dignity of Indiana's rich history.

(1) A large number of cemeteries in Indiana may be cared for by a county cemetery commission. IC 23-14-67-1 provides that a county may provide for the protection of a cemetery if the cemetery was established before 1850; is without funds for maintenance; has suffered neglect and deterioration; and may be the burial grounds for Indiana pioneer leaders or veterans of an American War. The DNR recommends changing the terms "may provide" to "shall provide" in an effort to protect and preserve cemeteries.

2) The DNR is in the process of drafting language to amend the criminal mischief statute to prohibit the desecration of cemeteries. This change will remedy the oversight in Indiana law that allows the tombstones of some of Indiana's oldest descendants to be desecrated.

The Department hopes that proposed legislation accommodating these changes will be introduced in the 1999 session of the Indiana General Assembly. Mr. Macklin welcomed input from the Committee and from the Natural Resources legislative committees. He provided the Committee with a handout that summarized both the legal procedure for relocating a cemetery in Indiana, as well as the administrative process for handling the inadvertent discovery or disturbance of human remains.¹

Dr. Rick Jones, DNR State Archeologist, and Colonel Larry Allen, DNR Division of Law Enforcement, responded to technical questions, indicating the following. Trustees of certain townships maintain cemeteries. Whether a township maintains the cemetery is generally determined by whether the township assesses a property tax to fund the maintenance. Care of cemeteries was previously mandated, but maintenance is no longer required. If an individual owns a farm that contains a cemetery, the township trustees do not maintain the cemetery. The farmer can do whatever he or she wants with the cemetery. If the cemetery is on private property, nothing requires the property owner to maintain it. The owner can remove the headstones and allow the cemetery to fall into disrepair. Animals can graze on the property. The township trustee would only maintain a public cemetery that is in use. If the cemetery is on private property, the county commission would have to obtain permission from the owner to maintain the cemetery.

Another solution to the problem would prohibit activities that damage cemeteries, coal mining, construction of reservoirs, and farming. Current law provides that the subsurface may not be destroyed.

Marvin Harbert, a resident of Madison County, testified to the elimination of portions of cemeteries in which his ancestors are interred. He observed that no law prohibits a farmer from plowing the land on which a cemetery is located, and no law prohibits a developer from building houses on the cemetery if the developer acquires ownership of the land.

Bob Kraft, Indiana Farm Bureau, suggested that as a matter of practice most farmers do not remove head stones from grave sites or otherwise desecrate graves. However, the Farm Bureau does have some concerns about a prohibition against disturbing the surface of the earth for farming purposes.

¹This document is on file at the Legislative Information Center, Room 230, State House, Indianapolis, IN (317-232-9856). The mailing address is 200 W. Washington St., Suite 301, Indianapolis, IN 46204-2789.

The Committee voted on the following proposed legislation.

PD 3163² provides that the DNR's Division of Entomology and Plant Pathology is required to make an annual inspection of plant nurseries that import stock into and export stock from Indiana. The Committee voted to recommend the proposal with five members voting aye and three members absent.

PD 3515³ requires a local governmental entity that wishes to adopt a regulation that affects the practice of falconry by persons holding a falconry license issued by the DNR to reasonably accommodate license holders by adopting the minimum practicable regulation that is required to accomplish a legitimate purpose of the local governmental entity.

Greg McCollam, Chief of Administrative Services, DNR Division of Fish and Wildlife, indicated that 78 individuals in the state have a falconry license. The fee for the license is \$60. Because falcons are able to hunt migratory birds, the falconer must also receive a license from the U.S. Fish and Wildlife Services. Some cities and counties pass local ordinances to control nuisance wildlife. These ordinances could inadvertently affect falconers.

Robert Todd, Indiana Falconers Association, supported the proposal.

The Committee voted to recommend the proposal with five members voting aye and three members absent.

PD 3507⁴ increases the license fee from \$15 to \$30 for the registration of a snowmobile with the DNR. The duration of a certificate of registration was increased from three years to six years.

Deak Thornton, President of the Indiana Snowmobile Association, spoke in favor of the proposal. However, he recommended that the term of registration remain at three years as opposed to six. He indicated that the revenue collected from snowmobile license fees is dedicated to the DNR for snowmobile-related law enforcement, maintenance of trails, map printing, safety education, and leasing of land. The costs of leasing private property make up more than 50% of the snowmobile trail program's annual budget. The Streams and Trails Section of the DNR's Division of Outdoor Recreation oversees the maintenance of 207 miles of snowmobile trails with 12 trail heads.

Snowmobiles must be registered once every three years. Revenues average around \$81,000 whereas expenses have averaged around \$97,000. Average annual expenses exceed revenues by approximately \$10,500. Recent differences in expenses and revenues have been offset by account balances. However, the account balance will be depleted within a few years.

Mr. Kraft supported the proposal as did Mr. Mercier and Mr. Harbert. Al Schuelker, with the Ft. Wayne-Allen County Snowmobile Association, supported the proposal, noting that over 2,400 snowmobiles in Ft. Wayne were registered. Pat Casey from the Potawatomi Snowmobile Club also supported the proposal, noting that the Potawatomi Club had over 100 members.

The Committee voted to amend the proposal with five members voting aye and three members absent. The amendment deleted the provision that increased the term of the registration from three years to six years. The amendment also provided that the DNR could purchase land only from willing sellers.

The Committee voted to recommend the proposal as amended with five members voting aye and three members absent.

²Copies of this document are on file in the Legislative Information Center (See footnote 1).

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PD 3525⁵ appropriates \$500,000 per year in the 1999-2001 biennium from the State General Fund to the Indiana Geological Survey to enable the Survey to accelerate the process of creating geologic maps of Indiana.

Dr. John Steinmetz, State Geologist, supported the need for the legislation. He cited population pressures, among other factors, that require managed growth of the land. By 2010, the population in Indiana alone will increase by an estimated 800,000. For every 300,000 people, 40,000 pounds of earth resources are used each year. Population expansions create additional waste products that generate septic and land fill issues. Additionally, there are environmental impacts, such as open pits, spoils of mining, contamination of ground water, and urban development of farmland. Maps provided by the Survey give information that is vital to urban and recreational planners.

Geological maps can be used to show the extent of aquifers and their recharge and discharge areas; the amount of groundwater resources; and other mineral and energy resources. The maps are generally used by a variety of sources to aid in land-use planning; zoning for ground-water protection, building codes and mineral extraction; in siting for solid and hazardous wastes; and in evaluating the impact of geologic hazards such as earthquakes and landslides. The Geological Survey also devotes part of its efforts to educating students and adults and increasing awareness of human activity on the environment.

The additional appropriation would accelerate the mapping process by adding personnel and equipment. The additional funds may also be used to leverage federal funds, which could double the total amount of funds available.

The Committee voted to recommend the proposal with five members voting aye and three members absent. Sen. Server explained his support of the proposal, noting that good information is needed to properly develop and manage the land.

PD 3595⁶ requires the DNR to acquire land for the purpose of establishing off-road vehicle trails. The proposal provides that the DNR may use revenue obtained from the registration of off-road vehicles for land acquisition for off-road vehicle trails.

Gary DeLong, President of the Discover Indiana Riding Trails, spoke in favor of the proposal.

Bill Stuart, Legislative Liaison for the DNR, explained that the DNR is currently evaluating maintaining trails for off-road vehicle activity. Recently, the DNR purchased ground formerly owned by a coal mining company. Prior to the purchase the land was used by off-road vehicles, and the DNR is continuing the off-road vehicle use and using the parcel as a test site. He asked that legislation be permissive as opposed to mandatory. Mr. DeLong agreed to permissive as opposed to mandatory language. The Committee voted by consent to amend the proposal to provide that the DNR "may" purchase land for off-road vehicle use.

Mr. Kraft concurred with the change and asked that the proposal include language to insure that the land would be purposed from willing sellers only to preclude the state use of eminent domain. Mr. Mercier supported the proposal.

The Committee did not recommend the proposal by a vote of four ayes and one nay with three absent. (A majority of five was needed to recommend the proposal.)

Creation of a Fall Turkey Hunting Season. Lori Kaplan, DNR Deputy Director, explained some options for instituting a fall turkey hunting season. The Committee voted to recommend the concept of having a fall turkey hunting season by a vote of five ayes with three absent.

Approval of the Minutes. The Committee voted to approve the minutes of the preceding meeting by a

⁵Copies of this document are on file in the Legislative Information Center (See footnote 1).

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vote of five ayes with three absent.

Approval of the Final Report. The Committee voted to approve the Final Report of the Committee by a vote of five ayes with three absent.

Hunting and the Use of Alcohol. Phil Ohmit, representing the Indiana Hoosier Alliance, proposed prohibiting hunting and the use of alcohol. The Committee, however, was unable to vote on his proposal due to the fact that the Committee no longer had a quorum. Sen. Lewis, however, indicated that he would be willing to introduce a proposal in the 1999 legislative session that would address Mr. Ohmit's concern.

Mr. Mercier supported Mr. Ohmit's proposal, citing that people who have been drinking have no business hunting in the field.

Land Acquisition by the DNR. John Davis, Director of the DNR's Division of Land Acquisition, provided the Committee with an overview of recent land acquisitions and negotiations by the DNR.

Adjournment. Sen Server adjourned the meeting at approximately 1:00 p.m..